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Nantucket Historical Association

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Nantucket Lands and Land Owners

V. 2, no. 3
BY

HENRY BARNARD WORTH.

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CHAPTER VII.

The Nantucket Indians.

The North American Indians had no written language and consequently no land titles that were based on documents. They had no inheritance, and property did not pass from parents to child. Whatever interest they had in land depended on occupation and it was difficult to understand just in what this title consisted, for they had no permanent location but roamed about at will unless checked by a hostile tribe. The English undoubtedly found trouble in determining who were the owners of the land.

Among the tribes on Nantucket two seemed to hold the dominant position; their sachems were Nickanoose and Wanackmamack. On account of their control over the rest of the Nantucket Indians these two men were considered head sachems; they were analagous to Kings and as the English King claimed the first title to land, so the English recognized a similar right in these sachems. From them, deeds were sought and they conveyed what was called "a sachem right." Just what this amounted to is now hard to decide, but at most was equivalent to this: that these sachems would guarantee that no Indian would ever afterwards claim the land from the English; it was not a title from a recognized owner, but a title that the sachems would not allow to be disturbed.

Mayhew had sold Nantucket to the first settlers previous to February, 1659, but the deed was not delivered until the next July. No explanation has ever been given of this fact, but it may have been the agreement that

before the deed should be delivered Mayhew should acquire some right from the Indian sachems. Previous to this time he had never succeeded in obtaining any Indian deed of Nantucket.

In May, 1659, certain of the Englishmen visited Nantucket for the purpose of obtaining a deed or deeds from the Indians. At this time success crowned their efforts. They obtained a deed dated June 20th, 1659, from the sachems Nickanoose and Nanahuma of a tract comprising the section of Nantucket west of Hummock Pond. George Nanahuma was the sachem of the Indians that lived in this section, but Nickanoose held some sway over him and joined in the conveyance. The first deed is as follows :

THE FIRST INDIAN DEED.

Nantucket Registry Book 4, page 93.

This doth witness that we Nickanoose of Nantucket, sachem, and Nanahuma, of Nantucket, sachem, have sold unto Thomas Mayhew of the Vineyard, the plain at the west end of Nantucket that is according to the figure under written, to him and his heirs and assigns forever. In consideration whereof we have received by earnest of the said Thomas Mayhew the sum of twelve pounds. Also the said sachems have sold the said Mayhew of the Vineyard the use of the meadow and to take wood for the use of him the said Mayhew his heirs and assigns forever.

In witness hereof, we the sachems aforesaid have hereunto set our hands this 20th of June, 1659.

The said Acamy lyeth north and by east and south by west or near it.

NICKANOOSE, + his
mark.

NANAHUMA, ◇ his
mark.

Witness hereunto :

MR. HARRY,


his mark.

JOHN COLEMAN,

THOMAS MACY,

TRISTRAM COFFIN.

It appears that at this date Thomas Macy, Tristram Coffin and John Coleman were at Nantucket.

In 1671 it became necessary to procure a new patent from Governor Lovelace. But this he would not issue unless a new deed was obtained from the sachems and a receipt showing that the consideration was paid.

Received of Tristram Coffin, of Nantucket, the just sum or five poun, which is part of the seven pound that was unpaid of the twenty pound purchase of land, that was purchased of Wanackmanack and Neckanoose, that is to say, from Monomoy to Waquettaquage pond, Nanahumack neck, and all from Wesco westward to the west end of Nantucket, I say, received by me, Wanackmamak, of Tristram Coffin, five pounds Sterling, the 18th, 11 M., 1671.

The X Mark of
WANACKMAMAK.

Witness hereunto :

RICHARD GARDNER,

ELEZER FOLGER.

INDIAN DEED OF NANTUCKET.

These presents witness, that I, Wanackmamck, Head Sachem of the Island of Nantucket, have bargained and sold, and do by these presents bargain and sell unto Tristram Coffin, Thomas Macy, Richard Swayne, Thomas Bernard, John Swayne, Mr. Thomas Mayhew, Edward

Starbuck, Peter Coffin, James Coffin, Stephen Greenleaf, Tristram Coffin, Junior, Thomas Coleman, Robert Bernard, Christopher Hussey, Robert Pike, John Smith and John Bishop, these Islands of Nantucket, namely, all the west end of the aforesaid Island unto the pond commonly called Waquittaquay, and from the head of that pond to the north side of the Island Manamoy; bounded by a path from the head of the pond aforesaid to Manamoy; as also a Neck at the east end of the Island called Poquomock, with the property thereof, and all the royalties, privileges and immunities thereto belonging, or whatsoever right I, the aforesaid Wanackmak, have or have had in the same. That is, all the lands afore mentioned, and likewise the winter seed of the whole Island from the end of an Indian harvest until planting time, or the first of May, from year to year forever; as likewise liberty to make use of wood and timber on all parts of the Island; and likewise half of the meadows and marshes on all parts of the Island, without or beside the aforesaid tracts of land purchased; and likewise the use of the other half of the meadows and marshes, as long as the aforesaid English, their heirs or assigns live on the Island; and likewise I, the aforesaid Wanackmamack, do sell unto the English aforementioned the property of the rest of the Island belonging unto me, for and in consideration of forty pounds already received by me or other by my consent or order.

To have and to hold the aforesaid tracts of land with the proprietary, royalties, immunities, privileges and all appurtenances thereunto belonging to them the aforesaid purchasers, their heirs and assigns forever.

In Witness Whereof, I the aforesaid Wanackmamack have hereunto set my hand and seal the day and year above written.

The sign of WANACK-MAMACK.

Signed, sealed and delivered in the presence of

PETER FOULGER,
ELEAZER FOULGER,
DORCAS STARBUCK.

After the English had bought the Island from Mayhew they purchased, as fast as possible, whatever rights the Indians were willing to sell. Sometimes these were sachem rights and at other times were rights leased on possession. The next deed to the English was dated May 10, 1660, and is signed by Nickanoose and Wanackmamack, and their title seems to be as Head sachems. It conveyed their right to all the Island west of Waquittaquay [Hummock] Pond and all north of a line drawn from the head of that Pond, eastward to Wheeler's Creek which is now called the Creek; also the right to pasture all over the island from Harvest time to May 1st. For this the English paid £26. Peter Folger and Edward Starbuck were present.

DEED OF WANACKMAMACK.

This Witnesseth, that I, Wanochemamack, chief sachem of Nantucket, hath sold unto Mr. Tristram Coffin and Thomas Macy, their heirs and assigns, that whole neck of land called by the Indians, Pacummohquah, being at the east end of Nantucket, for and in consideration of five pounds to be paid to me in English goods or otherwise to my content by the said Tristram Coffin aforesaid at convenient time as shall be demanded.

Witness my hand or mark this 22 of June, 1662.

WANACKMAMACK.

Witness hereto :

PETER FOLGER,

And WAWINNESIT whose English name is AMOS.

By these deeds the English acquired from the Indians about one-third of the Island.

In order that the deeds hereafter mentioned may be better understood reference may be had to the map compiled by Dr. F. C. Ewer. He states that the territory of Potcomet, alias Pottacohannet, extended not only to the small islands west of Nantucket, but also as far east as Capaum pond. There is doubt whether the sachem exercised any control outside of the islands. The deed of Nanahuma indicates that at that time he was sachem over the west end of Nantucket, and no other Indian deed has ever been found covering this section.

The three sachems who controlled the remainder of the Island were,

Attapehat, died before 1689.

Nicornoose died between 1677 and 1684.

Wanackmamack died before 1684.

For further use in comprehending the Indian deeds the pedigrees will be stated of each of these three sachems: Their descendants are as follows:

Attapehat, alias Autopcat and Autopscot, had a son Masauquet, who had a son Harry Poritan, alias Beretan, who had a son Isaac Masauquet.

Nickornoose had four sons, Isaac Wauwinet, Wat Noose, Paul Noose and Joshua Jethro, and a daughter, who married Spotso.

Wanack-mamack had son Saucoauso, alias Jephtha, who had two sons, Cain and Abel, and the former had Jemima, wife of James Shea, and the latter two sons, Ben Abel and Eben Abel.

Before giving the abstract of the Indian deeds the statement should be made that in all probability Nickanoose died previous to 1677, as that is the date of the earliest deed of his son Isaac, and no deed appears signed by him after that date. It should further be noticed that Nickanoose signed deeds only of territory belonging to some other sachem; the fact is true of Wanackmamack.

Neither signed a deed of any portion of the territory under his direct control. The sachem Attapehat as far as has been found, never signed any deed.

July 7, 1664. Pakapessa Jonas Harry and Lemmo sell to the English company all the fields belonging to the Neck called Nanahuma's Neck, for 25 pounds.

These Indians were probably residents of the region which lies directly west of Hummock Pond.

Aug. 11, 1664. Tequamomany and Mekowakim sell to the English for fifteen pounds all the broken land lying between Wanacomet and Waquitaquay, and from thence to Monomoy, all within the English bounds.

They were residents of the section between Capaum Pond and the harbor.

June 5, 1667. Whereas Peteson Mr. Larry Ahkeramo with Obadiah and George Nanahuma have made complaint to this Court that whereas the sachems had sold the land they formerly lived on to the English the said sachems would not entertain them on the land unsold.

The Court do now order that the sachems Wanackmamack and Nickanoose shall allow to the said gentlemen as follows :

Peteson and George Nanahumo 20 acres apiece in the bounds of Nickanoose, and to Mr. Larry, Ahkeramo, and Obadiah

shall have 20 acres apiece in the bounds of Wenackmamack without paying any tribute to the said sachems. But wood they shall have anywhere not generally prohibited.

The parties declare themselves well satisfied and contented therewith.

All the other Indians who formerly inhabited the west end of the Island the sachems shall entertain to live in the land unsold as the Indians and common people do within their precincts.

June 20, 1672. Ordered by the Court that in relation and answer, to the petition of Mr. Larry in respect of himself and other Indians formerly inhabiting the west end of the Island of Nantucket, that the said Indians shall have convenient places for habitation upon the land yet unsold which they shall hold with such rights and privileges as they held their former lands, and for the present year ensuing they shall live under the government of the sachems without paying any tribute and likewise hereafter unless at the next general Court the sachems shall show and prove that they were accustomed heretofore, when the English came and had such right of receiving custom and tribute and such lands as aforesaid shall be taken reputed and be so properly their own as

never to be sold from them nor their heirs forever unless by their own and the sachem's consent.

- 1673. Wequakesuk, sachem, to John and Richard Gardner, upland and meadow east of the creek called Shawkemo, and on the south by the Reed Spring.
- 1674. Wauwinnet, son of Nickanoose, one-half creek stuff west of Masquatuck, to Stephen Hussey.
- 1674. Wauwinnet, to William Worth for Inhabitants four acres at Coatue.

April 21, 1674.

Obadiah the Indian complains against Spotso that he will neither divide nor set off that land that is in partnership between them. The sentence of the Court is for the plaintiff, that he hath right to a quarter-part; that Spotso hath three weeks liberty given him to set out to Obadiah his part, and if he doth not thent the Court will appoint it out.

The Court sitting the 12th of May, Obadiah complains that Spotso will not divide him any part of land.

The Court hath therefore ordered a division and bounded it; the bounds is thus;—Bounded at the east with the spring at Shimmo; from thence unto the cartway at the south end at Monomoy that lies in a little valley there; and on the north and west with the harbor; and from the cartway at Monomoy aforesaid unto Wakataaquage Pond, that part of it as is halfe way between the brook running into said pond a little to the southward of the house of Edward Starbuck and the beach at the

south sea ; and so joining on the north unto the English bounds.

It is further agreed that Spotso has still liberty to divide the aforesaid land that was in partnership between them within one month into four equal parts, and Obadiah hath liberty to choose which of them four parts he will. Obadiah sold his part to the town.

Jan. 15, 1678. Sossockque or Jephtha to the town, the tract bounded on the north by the Great Harbor, on the east a line drawn from a tree now the bounds of Pocomak, and from thence to the old bounds of Pocomak lying by the Great Harbor.

1686. Soccoch or Jephtha to Stephen Hussey, the island in Gibb's Pond between the house of James Cowkeeper and the house of John Dequaine.

June 5, 1677. Nickanoose to his two brothers, Heattohanen and Wohwaninwot all his lands and drift whales.

June 1678. At a General Court.
Ordered that whereas at the last General Court holden at Nantucket June 5, 1677, certain of the lands unsold by the Indian sachems was to be partly occupied and partly put into the possession of sundry Indians in said order expressed, and if said Indians with the sachems can come to no agreement therein, then Mr. Tristram Coffin, Mr. Thomas Macy, Mr. William Worth and Mr. John Coffin have full power and authority to view and lay

out convenient tracts of land and deliver the same to the persons interested therein respectively according to said order.

Ordered that Moosaquit shall have the like privilege of government within his precincts as the other sachems have in theirs yet so far as to be subject to the English government.

- Dec. 1678. Wauwinnet to Edward Cartwright one-half an acre near the Cartwright house.
- June 24, 1678. George Nanahuma alias Cowpohanet to the English all his interest in the west plains and to the Neck or long woods.
- Dec. 28, 1678. Wat Noose to Edward Cartwright one-half acre of marsh.
- Oct. 14, 1676. Wat Noose to Edward Cartwright one acre near the Run.
- April 6, 1679. Wauwinnet to Edward Cartwright a piece of swampy land to the southward of Cartwright's house, lying in a straight line from John Swain's bridge to the corner of the ditch at Pompasson's land as may appear by the marks and from the said corner of the ditch on a straight line to the run of water in the swamp to the northward.
1682. The sachems granted one acre of land to Richard Gardner "Where his stage now standeth at Sisickechar, at John Swain's stage."

1684. Jephtha and Wauwinnet were the two sachems ruling the territories at the east end of the Island; they entered into an agreement with the English as to what should constitute the bounds of the English lands. This was done for the purpose of exhibiting the same to Thomas Dongan who was then Gov. of New York, in order that he might understand what lands were to be covered by the patent which he issued at that time. The following are the bounds.

Soosoah and Wauwinnet, Sachems, acknowledge that the English owned as follows, and the deed was witnessed by John Gardner, William Worth, William Bunker, John Macy, Eleazur Folger and Matthew Mayhew.

The bounds of the lands should be as aforesaid, and

First: From the head of Wauquittaquage Pond or Mr. Starbuck's Pond, and from there by a pond to Monomay or Mr. Macy's meadow: with all the woods to the westward of said Pond and north and then northward to the English's aforesaid.

Secondly: From the head or spring of Shawkimo and from thence by a straight line or by a path unto Shawkenes or the snake place all the lands to the northward and eastward to the river and to the English's.

Thirdly: All the neck of land called Poncammooncoe, being bounded from the head of the creek at Poatpos or at Watt's bounds; and by a straight line to the bounds on the north side by the river as 'tis now bounded with all the land to the southward and westward.

Fourthly: All the neck of land called Coatuet, being the north-east point of Nantucket and bounded on the south at the nearest distance from the sea unto the head of the great harbor and the great harbor on the west and

south and the sea on the north and east and inclusively according to the bounds we Soawcoe and Wauwinet do acknowledge to belong unto the English aforesaid except what dead whales shall be cast on shore, that to belong to the Indians according to former custom.

Further we do acknowledge to one half of all the rest of the meadows on the Island to have been sold and do belong to the English on any part of the Island belonging unto us as also further that there is liberty for the winter feeding on the whole Island for all sorts of cattle from the end of the Indian Harvest unto planting time or the first of May.

1687. Spotso to Stephen Hussey, a certain tract of land called by the Indians Aquidnose and is bounded by a hill all along from the head of the westernmost branch of the creek that goeth in or towards Shimmo over to the shore which faces the harbor, and so down to low water mark, which said hill fronting the harbor cometh a little to the southward of a valley called by the Indians Cocyeania, having on said hills several holes dug from the head of said creek to the water side over the neck against the harbor. It contained 18 acres.

1687. Sasapana Will to Stephen Hussey. Land on the south side of the Run as you go through Pocomo toward coatu called by the Indians Masquopect at the water side or south of said creek, and goeth up said Creek to the cart path and so up to a swamp. 1560 acres.

May 1690. Spotso to the town, a tract of land on the

south by the sea on the west with land of Mosawquet, that is to say, from the middle of the south end of Weeweder Pond on a straight line to a pit in the ground about eight paces from the town gate; on the north by the harbor except 20 acres of Coddude at Mamre.

This is a strip between south shore and the harbor south-east of the town.

Feb. 1692. Spotso to the town.—A tract the first bound at Monomoy a hole 20 rods from the bank westward on the English line and from said hole on a straight line unto the well on Mana and from thence on a straight line to the westward side of Mattaquitchame Pond to the sea, and on the east by Jephtha's bounds; on the south and north by the sea.

This tract will be recognized as the section from the harbor to the south shore west of Saul's Hills.

Apr. 29, 1701. Henry Britten, Sachem, to the Inhabitants: a tract on the east by Myacommet Pond from the sea or beech to the wading place; from thence by a swamp lying north-easterly 80 poles to a ditch, and from thence to Mycomet bars, and from thence by the town fence until you come to the English bounds near the town gate; on the south by the sea and on the west and north-west by the English.

Apr. 1702. Henry Britten sells to the town other land at Myacommet.

- July 1, 1690. Jephtha to the town; A tract on the west by the land of Spotso, being from the spring at Shimmo unto the bounds agreed on by Jephtha and Spotso, near unto Mattaquatcham on the south by the sea, on the east from the westward end of the great valley at Chappapemeset called Pasocha and from thence on a straight line unto a swampy slew or pond by the highway near Masquatuck.
- Nov. 3, 1691. Jephtha alias Saucauoco; A tract to the town on the south and south-west to a great stone lying and being at old Siasconsett and 20 rods from the clift and north to Sanckotuck.
- Jan. 20, 1708. Askommopoo widow of Spotso to her son Josiah, all interest in the Island.
- Sept. 2, 1709. Eastor, an Indian woman, wife of Jephtha to Stephen Hussey for the Freeholders all interest in lands of her husband.
1709. Spotso to Eleazur Folger one horse commons.
- March 1, 1709. Askammopoo, sister and heir of Wauwinnet to her natural son Josiah Spotso, three-quarters of all the land which came from Wauwinnet.
1715. Daniel Spotso to Inhabitants; The first bound a spring to the northward of Joseph Meeder's house by the meadow; thence on a straight line to Sasapana Will's old cellar; from thence straight to Kestokas

field; from thence to John Swain's gate by the creek and so along by the creek to the first bound.

This must have been a tract near Polpis.

- 1717. Spotso to Samuel Coffin, pasturage.
- 1722. Spotso to the Freeholders; this tract near the east end of the island; from a rock at the English bounds at a place called Kestokas field on a straight line to a place called Aquitnet Point where the fishing house of William Worth now stands; on the west by the English bounds and by Pocomo, on the north by the harbor, and east by the sea.
- 1723. Daniel Spotso to the Inhabitants; a tract in the section now called Squam.

Silas an Indian to Thomas Macy, 16 acres of land near Squam Pond.
- 1726. Spotso to the trustees: A strip of land from Potpis to the sea near Aquitnet.
- 1739. James Shay to Ebenezer Gardner for the Town.

Whereas, I was married to Jemima, the daughter and heir of Cain, a sachem, and she having died, I hereby sell all interest in her land.
- 1741. Daniel Spotso had died and his son Barney sells to the proprietors all his interest in land of his father.

1741. Ben Abel a sachem sells to the proprietors 2-3 of all land in the territory of Wanackmamack.

In consequence of this deed the Indians in his tribe repudiated him as their sachem, and a revolt took place which will be hereafter described.

1742. Esau Cook an Indian to Samuel Coffin, for the proprietors, land at South Shore.

March 2, 1744. Isaac Musaquat to proprietors, land between Weeweder Pond and Myacomet Pond, 240 rods north and south.

Oct. 9, 1744. Mussaquat had died and his wife had married James Robbin. They sell to proprietors all interest in Isaac's land.

1744. James Shay to proprietors one horse common.

1745. Isaac Woosco to Paul Pease; land near Sasagachah Pond.

1747. Samuel Chegin to Chapman Swaine "My English built dwelling house at Squam where my father lived."

1748. Eben Abel to proprietors: certain land at the east end of the island.

March 8, 1758. Eben Cain to proprietors: All land that he had inherited from Ezeky.

July 14, 1762. Titus Zekey to proprietors: Ten acres at Squam.

July 20, 1730. Joshua Jethro to the proprietors: All his interest in land inherited from his father Nickanoose. He made claim to this land, much of which had been purchased by the town from the Spotsos and other descendants of Nickanoose. His absence from the Island for over 50 years led to the inference that he had died, and when he appeared the land owners consulted their old men and they found that there had been such an Indian mentioned in the records March 25, 1674, in which he complained against Nickanoose for denying his title or interest in his land, and Nickanoose in open Court owned Jethro's title after the death of Nickanoose equally with Wauwinnet.

Between August 1763 and the following February, the Indians at Nantucket were smitten by a very singular plague which failed to affect the whites although they were nursing the sick Indians. At this time near Myacomet and towards the east end of the Island the Indian residents numbered nearly three hundred, and in this period of six months 222 died, and on the records appear only three more Indian deeds.

- 1771. Benjamin Abel sells to the proprietors all his interest in Nantucket.
- 1772. Abigail Jethro to proprietors: Part of a horse common.
- 1774. John Jethro to proprietors one sheep's common.

Metacomet, also called King Philip; visited Nantucket and failed to induce the Indians to join him in his famous war. In his presence they declared themselves at peace with the whites.

The liquor problem was always hard to solve. The Indians were certain to drink to excess and were willing to pay enormous prices for liquor that made it very profitable trading.

Stephen Hussey was found guilty of smuggling it, and Nathaniel Barnard and Stephen Pease selling it to the Indians. Legislation failed to remedy the trouble. They would buy or steal liquor and become infuriated to commit all kinds of crime.

LETTER FROM THOMAS MACY TO THE GOVERNOR.

Nantucket, May 9, 1676.

May it please your Honor, where your Goodness have been such as to send so after us to know how 'tis with us in these troublesome and dangerous Times, wherein our neighbors have so greatly suffered and we as yet through the Goodnesse of God are free, these are to returne Thanks the same of your Vigilancy we doubt not, hath conduced to our Peace, these rude lines are to give your Honor an Accompt how Things are and have been with us; a considerable Company of Indians have formerly owned themselves Philip's Men, but since the wars began they have seemingly we hope declared themselves against him. We have carried ourselves towards them manifesting no Distrust and Things have been orderly carried among them; only we have heard now and then a Word which we have not liked but have overlooked the same. And I doubt not we may enjoy Peace (if our sins hinder not) so long as we can keep strong Liquor from them. Your Honor may understand that some that dwell else-

where have some Yeares past sent Goods to trade with the Indians upon the accompt of Fishing, and otherwise and great quantities of strong Liquor have been sent and notwithstanding all orders and care about it to p'hibit it had ben one way or other disposed to the Indians which hath occasioned great Abuse and Disorder, but since the Warrs began they have not had much; the last Fall the Court tooke into their Possession all on the Island and disposed of it by small quantities as the Owners and the English Neighbors had need, and because of the late Scarcity little hath lately come.

The agent here that carried on the Trade for the Gentlemen hath bargained with the Indians to give each man a dram before they go out fishing in the Morning, but under that p'tence much abuse have been, but respecting that p'sent Voyage a small Quantity came, about 16 Gallons which was carried by ye Indians. It so came to pass that a Sloop came to my Hon'd Cousin, Mr. Mayhew, from the Hon'ble Councill, and Mr. Mayhew sent to me the order that prohibited strong Drink being carried to any Indian plantation, which Order came to my Hand the 6 day of the Week, and I presently went to ye House of him that had carried the Liquor aforementioned to ye Indians, and carryed the Order with me, but finding him not at Home left a Warrant at the House requireing him in his Majesty's (name) to fetch away the Liquor carried to ye Indians; but slighted and not at all obeyed, but the Liquor spent there as I understand. The Monday following I caused the Order to be read in the Town Meeting, which some greatly disliked, as I understood.

My Humble request is, a Word or two from your Hon.: about it. Sir, concerning the Peace we hitherto enjoy I cannot imagine it could have been if strong Liquor had bin among the Indians, as formerly; for my owne yt I have been to ye utmost an opposed of the Trade these 38

Yeares, and I verily believe (respecting the Indians) 'tis the only ground of the miserable p'sent Ruine to both Nations; 'tis that hath kept them from Civility, they have been by the drunken Trade kept all the while like wild Beares and Wolves in the Wilderness.

Concerning my understanding in the matter I have now sent to Governor, ye which I hope may come to publicke View, &c. But respecting the p'sent Times and State of Things, I humbly entreat if in yo'r Wisdom you shall see meet to make a strict Law or Order respecting our Island to p'hibit any Vessel whatsoever that shall come in ye Harbor to sell or give any strong Drink more or less to any Indian under a penalty, and to Command or Order the Governour here to search all Vessels for strong Drink and either to cause the Master or Merchant to carry away or take into custody so much as they judge may be needfull for the moderate use of the English here, or for Indians in case of distress, &c., and according to ye discretion of the Court to put it in the Hands of some Man or Men that may be judged faithfull, by small quantities, dispose as be needed, for tho ye Traders it may be do not dispose of much to ye Indians, yet many of the Inhabitants do frequently purchase it p'tending for their own use and sell it to ye Indians. An Order from your Hon. will be of greater Force than any we can make tho left to Liberty herein: and whereas in your Letter to Mr. Mayhew you give liberty to dispose of Powder to trusty Indians for their necessary use, we judge it were better for us wholly to p'hibit for tho some here we apprehend may be confided in, yet so to distinguish will give great Offence, yet by private Instructions your Honor may referre something to ye discretion of the Governor, respecting contingent accidents in reference to and Peace, not further Trouble at p'sent I commend you ye weighty

Affaires committed to your management to ye
of the only wise God and remaine,

Your Servant at Command,

THO. MACY.

The General Court passed this vote in the same line :

Oct. 3, 1696.

In the House of Representatives,—

Voted : that the Honorable the Lt-Governor and Council would please to take some speedy course about the Indians at Martha's Vineyard and Nantucket to prevent the inconvenience caused by the great quantity of sider and other strong drink that is brought among them and sold unto them thare.

It plainly appears that every tract of land on Nantucket was covered by some conveyance from the Indians, generally from a sachem, though sometimes from the occupant. No deed was ever alleged by the Indians to be forged or that they were induced to sign when intoxicated. They claimed that they had been treated unjustly by their white neighbors but never that any advantage was taken to procure conveyance. There can be no doubt that the rights of the Indians were fully protected so far as their land was concerned. But there were two legal results that were perplexing to them.

1. Seizure of property to pay fines imposed upon guilty persons.
2. The Anglo Saxon theory of real estate conveyances.

If any Indian while intoxicated or in passion, assaulted a human being it was all right to find him guilty, and when brought before the Court they usually admitted the act ; but to be fined £10 and have a house or land taken

to pay the fine was a novelty. The Indian notion of punishment was to visit on him the same suffering that he caused the other. Taking away his horse because he assaulted a man with a knife was an unheard of proceeding. And they never ceased writing of the great injustice they had sustained. But according to the theory followed by the English there was nothing unjust about it. The law of England prescribed fines as a mode of punishment. The English could not allow disorders to pass without notice, neither could they torture Indian criminals and allow white to be fined. The only safe rule was to punish both in the same manner. The Indian complaints recited how different articles had been taken from them, but when the fact was ascertained there was always a criminal complaint and verdict of guilty, and then the officers collected the fine. The Indians charged that they were not permitted an impartial trial but if there had been any serious wrong there was the right of appeal to Courts of higher jurisdiction in New York and Boston, which would have corrected any injustice.

It is also evident that the Indians were not skilled in understanding the numerous crimes of the Englishmen. Trespass on real estate was unknown and very few acts of Indians were ever punished and then only as revenge by the person injured. Drunkenness was not an offence so it seemed singular that the English sold the Indians liquor at satisfactory profit and then punished them for being drunk. Yet this claim was never made. The complaint was based entirely on the punishment.

But the greatest source of perplexity was the force and effect of the English deed of conveyance. The idea that one man could so become entitled to real estate as to prevent others from using it never entered into the notion of the Indian. Land was to him as free as the water or the air. Nobody could have exclusive right to it. So

when the white men came and obtained deeds from the sachems, it was merely the admission of the new settlers on equal terms with themselves. It was not that the Indian had ceased to have the right to enjoy the land but that another had become his co-occupant. Hence the idea that an Indian could be guilty of trespass was a strange innovation. Having the same right as the white man he supposed he could use any land, house or building of the Englishman, or even his property without being guilty of crime. When this use was denied and he was held to be guilty of trespass or theft, it was beyond his comprehension.

The whites desired the land and were willing to pay for it. The Indians used it for no special purpose. Having paid for it and taken the deed, the Englishman could not permit the Indian to interfere with his exclusive use. For if he did then the Indian could use any property of the white man, real or personal, without restraint. Such a condition was not to be thought of by the English. They applied the same law to the Indian as to the white and it is hard to see how they could have done differently.

The further fact cannot be doubted that for planting, houselots and other usual purposes the Indians have all the land that they required. They were not ejected or removed from their homes.

This is not the place to discuss whether it was fair to the aborigines thus to apply to them the European idea of land tenure and compel them to obey the laws and regulations brought from England, or whether these rules and regulations were the best that could be devised. The question is whether by fraud, artifice or over reaching the white settlers took advantage of the Red men. There was never a complaint by the Indian that he was cheated but that he was fined for offences that were not punished before the white men came, and that when the sachems

gave deeds to the English, then the Indians were forbidden to use the same land thereafter. It was purely a question whether the whites should stay on the Island or move away. For to allow the Indians to follow the customs of their wild life would render inhabitancy of the white man impossible.

If the Indians once allowed the same liberties with the whites that were permitted among themselves, the property of the English would not be safe, and their only alternative would be to abandon the Island to the natives. It is not the purpose of this book to discuss the question, whether the English should have settled the new continent or left it to its wild inhabitants. This concerns every country where there are savages, but it must be clear that there were no tricks practiced on the natives and no different treatment extended to them than to the whites and that they were used honestly and suffered only because they were not accustomed to the laws and regulations enforced by the English. Assuming that the English were rightfully on the Island, it must follow that they took no advantage of the Red man but treated him exactly as they did their own countrymen.

The acts complained of by the Indians were due to the laws which the Englishmen brought with them across the Atlantic and not because of any purpose to wrong, cheat or defraud the Indians.

During the controversy described hereafter in which the Indians attempted to recover their lands from the English, they alleged that although the latter had sachem deeds yet these could not take away the rights of the individual to land.

If it be said that much if not all the friction between the two races was due to the liquor which the English sold to the Indians, the answer is that there is no evidence of the fact and the Indians never made any such claim. If in

any way this proposition can be established, then the English were responsible for a great wrong. But there is absolutely no evidence that any property was obtained or any liberty restricted by the English while the Red men were under the effect of liquor. If such had been the case, their white friends would have been sure to urge it in their petitions. At the same time the English did their best through fines and punishment to change the life of their neighbors. It is said that some religious teaching was provided and by the Lovelace instructions in 1671 a particular arrangement was advised to conciliate rather than antagonize, and to be careful to use such moderation that they may by degrees, be brought conformable to the laws and that they be allowed some self government based on the English model.

But the most vigorous effort was made to reform the Indian by Court procedure. The only obligation which the Indian recognized was to superior force. He felt no duty towards his neighbor. The duty to pay a debt was an unknown idea. Hence the first case which opened to the Court in September, 1672, was an action of debt which John Savage brought against the Sachem Jephtha. Then for nearly forty years the almost entire business of the Court was devoted to cases in which one or both parties were Indians. Courts were established in each sachemship, and Indian judges and officers were appointed to deal with misdemeanors. It was hoped that in this way the savage might be educated to an apprehension of rights and wrongs as understood by civilized nations. But the attempt failed because a race that owed allegiance only to brute force could not easily understand moral duties and obligations.

In the Registry of Deeds appear references to whaling and fishing. The bodies of whales drifted ashore and were highly prized by the natives although to what use they

put these bodies it is not now possible to decide. It seems, however, that they found some advantage in securing "drift whales," and soon after the settlement of Nantucket the Englishmen found it to be necessary to make regulations about their disposal.

7, 13, 1668. "Edward Starbuck and Peter Folger were empowered to make a bargain with the Indians concerning all whales that shall come to any shore on the Island, on the Town's behalf."

June 20, 1672. "Ahkeiman laying claim to part of Tuckanuck his claim thereto is found no other but as he was a duke or principal man upon Nantucket; the Nantucket Sachems, together with his father, having sold Tuckanuck it is ordered that he shall have such a part or portion of land for his use at Nantucket of the present Sachems as will become one of such quality, and a portion of the whales."

July 21, 1673. "Ordered by the Court that the Alwife Creek of fishing at Coatue and all the whale fish or other drift fish belong to the Indian sachems, and liberty to gather flags and other beech grass to make mats."

March 29, 1676. "At a Court held at Sherburne it was concluded that Washaman is to have the head of drift whales for his share, and Desire is to have half along with him, and when Washaman is here at this

Island then he is to go Master of the share ; but when he is absent then Desire is to go master of the share."

June 27, 1676. "It is ordered that no rack whale that comes ashore in any sachem's bounds shall be cut up until all the masters of the shares that belong to that whale do come together upon the penalty of 20 s fine to any that shall cut up and dispose of any part contrary to the order afore-said, and also if any master be off the Island and have no man to act for him he is lose his share whale for that time."

This was done in consequence of a complaint by Mr. Harry against Spotso for so doing.

June 5, 1677. "Between Spotso and Moosoquet concerning the land whose certain boundaries form a point called Astimmoost and so over to the beach and westward by the English land. The Court having resolved and the parties contended that the land shall be equally divided between them and likewise the beach and what whales come ashore shall belong to him on whose right it falleth, likewise the people living on the whole tract are to be divided equally to live on either of the lands."

April 24, 1678. "At a Court of Sessions it was ordered that Waquaheeso Nickanoose, Spotso and Massaquot shall have full power to choose ten men as a committee for the finding

out the particular rights in whales of all men, and having so done then this committee to give an account to the Court and from thence it shall be transmitted to the General Court for confirmation, and if in any case a particular man shall be wronged by the committee they have their liberty by petition to the General Court where they may be heard."

- June 1678. "Wakeikman is ordered to have such a part of Massaquats whales as he can make appear that he used to take by Sessanuquins order while said whales were in the possession of Wienakisoo."
- June 1678. "Ordered that Mequash shall have such a part of the whales of the Nantucket lands as did belong to his ancestors inasmuch that it appears that he obtained the right thereof from the Sachems."
- June 1678. "Ordered that George Nanahumo, Nantakagin and Obadiah with their companions shall have the whales from Goodman Swaine's Pond to Smith's Point according to their former custom and to be divided."
- 2, 24, 1679. "Massaquet complained against Eleazur Folger for taking away his whale the Court found for the defendant and Massaquet appealed to the General Court. The trial of the case was heard before the following jurors :

Philip Watson,
 William Weeks,
 Thomas Trappe,
 Richard Arey,
 Peter Jenkins,
 Mose

“The jury find for the plaintiff and cost of Court.

The Court do adjudge the said defendant to pay for the whale the sum of 4 pounds in goods at the usual price of trading, and do allow his bill of charge 6 s.” It is significant that this jury was composed of Vineyard men.

“Mr. William Worth and William Gayer said that Eleazur Folger did own at the trial of the case at Nantucket that he did dispose of the whale in controversy.”

July 19, 1679. “The Court ordered that the rack or drift whale in that bound on the beach upon the plains from the pond of Richard Swaine to Smith’s Point shall be divided into eight shares.”

It would not be profitable to rehearse all the shortcomings of the Indians that are recorded. But a few will be given to illustrate the method of the Court. March 1677, Quench sued for “a disvourse,” which was granted and the woman that was his wife was fined 20 shillings “in regard to his trobell.”

Stephen Hussey complained that Debdekcoat would not pay for some fish. The Indian admitted the debt and he was ordered to deliver to Hussey the same quantity of fish.

Machooogen was convicted of "Burglary" and was fined 5 shillings and severely whipt.

Shaakerune had sold liquor : When interrogated where he procured it he answered that he found it. For this trifling with authority he was fined 5 shillings and ordered to be whipt ten stripes, for "imbaseling." Usually the culprit confessed the fact.

And so proceeds the record, page after page. It is all explained when one remembers how crude were the Indian's conception of human rights. Liberty so unrestrained as to become wild license was his only rule and he was ready to commit any crime to procure liquor or chattels belonging to the English. The penalties which were imposed seem to be lenient. Here are some samples :

Stealing beef from storehouse, Court fees.

Hindering an arrest, £5 and whipped.

Breaking into a house, whipped.

Stealing sheep, whipping and branding.

Assault, 20 shillings.

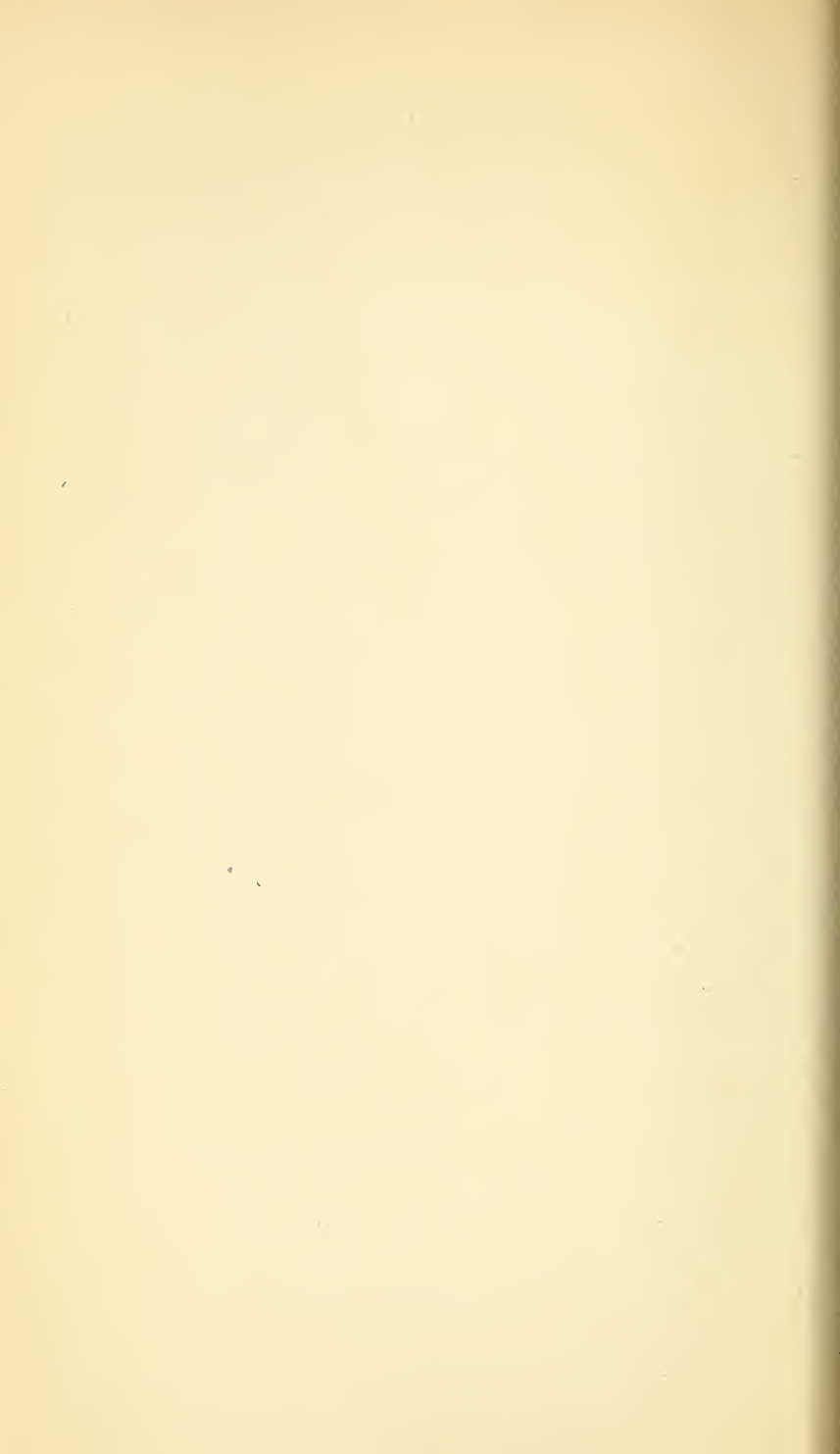
Stealing a canoe, 20 shillings.

Being drunk, 20 shillings.

Breach of promise, man to be whipped.

The death penalty was never ordered except in case of murder.

The traits of the Indians will be exhibited in the following chapter.



CHAPTER VIII.

Indians Attempt to Regain Their Land.

There was another feature of the English conveyance that was a puzzle to the Indian. He could not comprehend how he could be deprived of use of land after he had given a deed of the same, but he held to the idea that even if he were ousted yet his children certainly had right to occupy as though the white men had no deed. About the year 1700 the old sachems that were there when the English came had passed away and the red men felt apprehension at the increase of the whites.

How soon after the settlers reached Nantucket misunderstandings arose there is no way of determining; the earliest Court records that have been preserved were begun in September, 1672. There is no question that before that time there were Courts in Nantucket, in which violations of English law were punished. Probably these proceedings were kept in a small book which was demanded of Peter Folger while he was in jail. There were constables both Indian and English, and previous to 1672 there were rules and regulations for the conduct of Indians both personally and in relation to his property. These orders and regulations are briefly indicated in the chapter on that subject.

The first record of any controversy is July 19, 1673, when a complaint is made against Nickanoose and his son Isaac Wauwinnet for "defaming the title of the English Neck called Pokamquoh." Witnesses and deeds were examined, and the Court decided that the title was good.

The difficulty in April 21, 1674, when Obadiah complained against Spotso that he would neither divide nor set off land, has already been described.

The discontent that was natural at observing the prosperity and increase of the English. The English were too numerous for the Indians to attempt war. In some way they had discovered that petitions to the General Court were respected by that tribunal. They accordingly obtained the services of some Englishmen to draft a petition which was presented to the Governor probably in the spring of 1700. Although the petition has no date Lord Bellamont was Governor of Massachusetts Province between May 26, 1699 and July, 1700, and it must have been during this period that the petition was presented.

The petition was signed by Seikinnou and Daniel Spotso, Although the latter was selling land to the English both after and before this date.

“To His Excellency Richard Earl of Bellamont, Baron of Colony, Governor and Commander-in-Chief of the Province of Massachusetts Bay in New England, and the Honorable Council and Representatives in General Court Assembled :

The humble petition of Seiknow and Daniel Spotso, Indian inhabitants of the Island called Nantucket, within the said Province, humbly sheweth :

That whereas your poor petitioners, being Indians of Nantucket Island within this Province, said Island being peopled in part with the English who making divers purchases on said Island have claimed such interest in the herbage of the whole that they have on pretense of trespass done them by our cattle taken divers of them sold them and converted them to their own use notwithstanding our pretense of right there to feed and pasture, in doing whereof they pretend law and to have done the same by

authority thereof. If it please your Lordship and your Honors we humbly pray that in respect to the said English inhabitants and such as are their judges or concerned or that have been concerned in taking away our cattle and forcing us to pay for using our own lands and pasturing our own rights become therein judges of their own cause, judge and execute what they call a trespass to themselves which cannot be avoided since they all claim a common right or share lying in common ; every Englishman's case, as to such cases, is the pretended interest of both judges and people and ourselves being low in parts and poor in estate, not versed in English law yet taught our wrong by the light of nature, humbly pray that your Lordship and Honors would please in honor to justice and pity to our distress to afford such relief as to your Lordship and to your Honors in wisdom may seem meet to your petitioners. Shall always pray as in duty bound.

Whereas we Daniel Spotso and Seikinow in our humble petition herewith presented have in general showed our grievance respecting the present state of things relating to our liberties, properties and rights on the Island of Nantucket we would humbly presume to speak more particularly of late injuries, as we humbly conceive we have lately sustained, and seem remediless for the reasons in our petition contained, viz :

Some time this spring John Coleman, constable, did take two cows from me Seikinow, alleging he did it by order from Capt. John Gardner, Esquire, Justice of the Peace, for that my cattle were trespassers by feeding on lands which belonged to himself and purchasers or town myself putting them on my own right, but being ignorant of English law and poor in estate for the reasons in our humble petition contained rely wholly on your Lordship and Honors that what of right belongeth may be done.

And I Daniel Spotso Sachem having right to pasture

and feeding of cattle and as I humbly conceive on certain lands on Nantucket, finding the great disturbance and grief of Indians challenging like liberty being fearful of a like suffering with those that have been fined or paid for using the liberty, under ours and my ancestors, and being threatened with the like except he would agree, viz: with said Capt. John Gardner and Town, and being both poor and not acquainted with English law and customs would humbly pray I might know whether the taking of money from those that have claimed liberty for such feeding from him be equal and right by English law, that so he may regulate himself accordingly and that the same may be by persons not interested or claiming said right.

(Signed,)

SEIKINNOW.

DANIEL SPOTSO."

The allegation in the petition that the judges were not impartial is very similar to an allegation in a petition about the same time presented to the General Court by Stephen Hussey.

This first petition was skillfully drawn, and it is not strange that Lord Bellamont was much impressed with the wrongs which it delineated. During his term of office Mr. James Coffin, then Judge of Probate from Nantucket County, called upon the Governor in reference to the petition, and this is the Governor's account of the interview :

"The Representative that served for Nantucket (one Mr. Coffin) came to solicit me and the Council to pass an act to restrain the Indians on that Island from trading with Rhode Island; the Indians had complained to me how hardly they were used by the English, and Mr. Coffin owned the whole matter there that the English had

bargained with the Indians that half of the Island should be for the use of the Indians to sow Indian wheat on, but that while the crop is off the land the grass on that land is to belong wholly to the English; so that these Indians now that they would keep cattle are not suffered to do so. This is such a circumvention and fraud as ought not to be suffered, and so I told Mr. Coffin before the Council and I declared I would not give a cent to any bill that should put a further hardship on those Indians."

It would seem from this account that there must have been a misunderstanding on the part of the Governor of the statements made by Mr. Coffin, for it is not possible that he could have made the admissions stated by Lord Bellamont.

As nothing resulted from the Bellamont petition except some discomfiture to the English, the Indians shortly afterwards petitioned to Gov. Dudley and made the same statements in substance as contained in the first petition. There is no date to the petition, but it may be fixed approximately between June 11, 1702, and Aug. 27, 1703, for the following reasons: From the archives in Boston it appears that the committee to whom this petition was referred made a report thereon, dated Aug. 27, 1703, and this period of service of Joseph Dudley as Governor commenced June 11, 1702. The petition must therefore have been presented during the period between these dates.

The similarity of the phraseology of this petition with the one presented by Stephen Hussey almost proves that he was the composer of both. For comparison Hussey's petition is presented. Later Cain and Abel gave Stephen Hussey a conveyance of all their lands for 99 years.

“To ye Honored Counsell and Representatives now setting and assembled in a Great and General Court att Boston, &c., &c.

The Humble Petition of Stephen Hussey, of Nantuckett, showeth :

How that your Petitioner having occasion to bring severall actions and pleas against ye Inhabitants of our town of Sherborn upon Nantuckett considers himself under a great disadvantage in yt ye law of ye province give the subject the advantage of three tryals and your petitioner without your speciall release must be contented with only two in as much as ye petitioner in a Royall action which is his case, must being his said action in ye county and place where ye land lieth which will be where ye judges and Major part of ye jury will be the principal psons yt petitioner brings his action against; ye premises considered, your petitioner's prayer is that you would please in some measure to make it your owne case in that your petitioner may rationally conclude he shall lose his case on the first tryall and soe can have the benefit of but two tryalls.

Wherefore upon the reasons above laid down, your petitioner's earnest prayer is that your Honors will allow him ye favor of a speciall Court to begin or bring his first action or order yt he may proceed or bring such action at ye Inferior Court att Boston or at any Court in Plymouth Colony as in your wisdom shall be thought consistent for yr petitioner dreads a tryall upon Nantucket for yt he cannot sometimes obtain copies of the clerk, under a legall test, and sometimes no copies at all, and sometimes cannot have ye evidences relating to his case read in Court, and so itt hath been sometimes yt in his case that although the jury have come into Court and desiered the papers relating to ye case, they weren't upon hand been

denied them by the Court, as also hearing of them read and soe compelled to bring in a speciall verdict or none at all for want of the evidence and papers. This being ye petitioners complaint, Humbly craves yr Honors' help.

And ye petitioner shall ever pray, etc."

June 1, 1702.

The General Court resented the allegations of the petition and administered a sharp rebuke.

Petition sent by Indians, probably after 1702 :

"To His Excellency, Joseph Dudley, Esq., Captain-General and Governor-in-Chief in and over her Majesty's Province of Massachusetts Bay, and to the honorable Her Majesty's Council for the said Province.

The humble petition of Daniel Spotso, Abel Cain, and Peter Massaquet, all Sachems belonging to the Island of Nantucket, sheweth—

That whereas your petitioners are very much wronged and oppressed by several of the English inhabitants of the Island aforesaid, who did very much overreach your petitioners' forefathers, in the purchase of lands and hedges. And also, in carrying away all their wood that grew both upon and under ground, to the great grief and damage of your petitioners, and who will be forced in a short time to leave their habitations, and be utterly ruined, unless some remedy be applied for their relief. And whereas your petitioners are utterly without remedy, and cannot possibly recover their right by law at home, both Judges and Jurors being all parties in the cause, for which reason your petitioners have been feign several times to address the authority of this Province, but as yet without redress.

Your petitioners therefore humbly pray, that a special Court of Oyer and Terminer may be constituted and commissioned to set, at the charge of your petitioners, in Boston, with full power to hear and determine all causes that shall be brought before them in behalf of your Petitioners according to law.

And your petitioners shall pray, etc.

Signum,

DANIEL SPOOSPOTSWA,

PETER R. MASSAQUET,

ABEL 1. 2 CAIN."

The report of the Committee to whom this petition was referred is incorporated in a report in relation to Indians on Cape Cod and Martha's Vineyard as well as Nantucket.

After the report had been made nothing further was done until June 14, 1708, when James Coffin, appointed agent by the Town for that purpose, petitioned the General Court for a confirmation of the Committee's report. The purpose of this petition was to fix the status of the English titles by an act of the Legislature.

The report and petition are as follows :

"To His Excellency, Joseph Dudley, Esq., Capt.-General and Governor-in-Chief in and over our Mejastie's Provinces of the Massachusetts Bay.

The humble petition of James Coffin, Esq., in behalfe of the English Inhabitants, proprietors of the Island of Nantucket,—

SHEWETH

That whereas by an order of the Great and General Court now about five years since, viz: 1703, there was a Committee appointed to hear the several claims of sundry Indians to land upon Nantucket, Martha's Vineyard, etc., and upon hearing the pleas and allegations of both English and Indians concerned they made their report as more

at large will appear by a copy thereof hereto annexed, and (among other things) reported that assuming the contest between the Sachems and English on Nantucket about feed of cattle.

It appears to us by deeds that the English have purchased the herbage of Jephth , Spotso and Manumet, sachems share, and that the will or writing produced by the Indians to prove the former conveyance of it to them by the there inquired into, the truth of it and found by the confession of the scribe that wrote it, and by other there interested that they do not agree neither to the time nor place where it was written (together with other of their papers) which gives us cause to believe that they were not true, but false and forged.

But forasmuch as the said report altho' returned in to the General Court hath never yet had the approbation or confirmation of the said Court.

(Prayer for confirmation)

JAMES COFFIN.

14th June, 1708.

The Committee's Report, 31 - 17,
dated Aug. 27, 1703.

BARNABAS LATHROP,
JOHN THATCHER,
STEPHEN SKOOFFE,
JOHN OTIS,
WILLIAM BASSETT."

The report was adopted by the General Court the same month.

The deed or will referred to in the Committee's report cannot be positively identified, but in all probability it is the will of Nickanoose, written in the Indian language, and dated 1668, which years afterwards was recorded at Martha's Vineyard and produced as evidence in the later stage of the controversy before the General Court.

By reference to the deeds given by the Indians who signed these two petitions, which deeds were given after 1703, it must appear evident that the decision of the General Court made very little impression on the Indians; every one of them gave deeds to the English, and some covering large tracts.

The second stage of the Indian controversy began in the summer of 1741, when the sachem Ben Abel had given a deed to the English of two-thirds of the territory of Nickanoose. Immediately there was an uproar among the Indians of that locality. In the following petition it will appear that they described themselves as Lakedown or Lakedon Indians.

Among the names of the petitioners will appear Joshua Mamock and Titus Mamack, which lends some plausibility to the theory that the sachem Wanackmamack should have had his name spelled Wanack Mamack.

This petition is not drafted with the care and skill of those from Stephen Hussey's hands, and as a result seems to have made but little impression upon the General Court.

It was the same old story that the Indians could not comprehend how by a deed a man could so become vested with a title as to exclude all others from occupation.

Notice of the petition was given to the town of Nantucket, and John Coffin and Abaisha Folger made answer to said petition about two years after.

It was a case where the proof did not sustain the allegation; whoever drafted the petition for the Indians alleged more than could be proved. The petitions and the answer are as follows:—

“In the year 1741, 2 of the 11 mo.

“Then we, the Indians of Lakedon, Nantucket, complained with the English for taking our cattle from us,

and also from our fathers. But we now speak for ourselves, for we know what they have took away from us in times past.

John Jouab had horse taken from him which cost him eight pounds.

Jonathan had horse taken from him which he had nothing for.

James Asab had horse taken from him out of his own pasture which cost him four pounds, and he took nothing for his horse.

John Tashime had horse taken from him which cost him five pounds; had another horse took from him which cost ten pounds.

John Jethro had three horses took from him which cost him 27 pounds.

John Mamack had horse took from him which cost him 12 pounds.

His father had horse took from him.

Paul Jouab had two horses took from him which cost 25 pounds.

Esau Cook's father had horse taken from him which cost 12 pounds.

Richard Napanah had a heifer took from him.

Solomon Zachariah's father had horse taken from him which cost him 3 Pds.

Naubgrachas had a horse taken from him.

Abel Nanahoo had a horse taken from him which cost him 6 pounds.

James Asab and John Asab make complaint against the Englishmen of Nantucket or their father Asa, for taking from him twelve cows and oxen in his day. This was done more than forty years ago, and we Indians of Lakedon, some of us have horses, and we been pasturing for ourselves of Englishmen; they ask us three pounds first, then four pounds, and now they ask five

pounds. In the year 1741 Englishmen's creatures eat our corn most all up and now they eat all of it.

John Jouab had an acre of corn almost half eat up by Englishmen's cattle, and he had not near half as much as he expected he would have from this acre.

Solomon Zachariah had one acre of corn all eat up by Englishmen's cattle.

John Jethro had half an acre of corn all eat up by Englishmen's cattle, and had wigwam house broke down, and Englishman gave him nothing for it.

John Tashima had half an acre of corn all eat up by Englishmen's cattle, and had nothing for it.

Esau Cook had two acres all eat up, and had nothing for it.

The said Englishmen taken our cattle away from us make other town Indians come in upon us, take away our wood from our land. These Indians said no Englishman went to prison; those Lakedon town Indians they cared not what to do unto us. Chief of those Indians is Barnabas Spotso and James Papamoo, his son.

And those Englishmen of Nantucket they never take their sheep early in the spring of the year but let them late this month of May come in, and then after their sheep have done some hurt to our plantations then they take their sheep from our lands, and after they will let go their sheep; they let them go to our lands sometimes last of August; then they let them go up to our lands to eat up our corn, and if they let go their creatures to eat up our corn and they would pay us for hurt but they never did and their creatures hurt us for eight years."

11mo. 1741.

"Then came to pass that we Lakedown Indians at Nantucket met with great trouble by the Benjamin Abel for selling our land from us to Englishmen which we all

had share equal that we Town Indians at our place consulted together and we all agreed as one to put down the aforesaid Benjamin Abel not to be Sachem over us any more, and after we had so agreed together then we Town Indians appointed to pray to our God to put us in a way which we should take. The church people and the town people were together that day and after this all our elders in our town tell us we may put down Benjamin Abel from being sachem in our place and we may choose another man to be sachem over us, and we went to New York and Boston to ask these two governments and they tell us that we may put Benjamin Abel down from being sachem over us from doing that she should not done, may chose another man which fear God because this Benjamin Abel had no other power but what he had from us, and we town Indians as to do anything in our town. And then we had liberty to choose another man which should stand for us in our town and for our land.

This was done at Nantucket Lakedower Indian Town. In the fourth month, 1741, this year, and we the Lakedow Town Indians chose this man John Quass to be for our help and sachem in our town and place over us. We chose him because our fathers and good old men, in our place tell us, if ever we chose another sachem in our town, we should choose this man, and now we look to this man which serve God for what he did to help the town people in our place.

Concerning of our land before he was chose so to do and after he was desired to help the town people in what he seeth it is good for town people and will defend us from our enemies, from the English and Indians as they are our enemies in all they do, to teach us and some Indians in our town to do take our land away from us, and in all manner to bother us but this man has been our help and

we find no fault in him and we hope he is a man that has fear of God.

And now you John Quass you are the man which we chose to be for our sachem Lakedon Town Indians, and to be our help where you see we need of it.

Concerning of our land and as shall be for your

I John Quass are a poor man; I have nothing. If please God to spare my life and give me wisdom and knowledge, you shall have your land of me the Lakedown Town Indians."

Mch 24, 1741. The Committee to whom was referred the complaint of John Jouab et al, Indians at Nantucket, having heard the complainants and considered therein, are of the opinion that inasmuch as John Macy and Tristram Starbuck have purchased of Benjamin Abel, sachem, the land mentioned in said complaint at Secatan and a full understanding of the matters complained of cannot be had without hearing the complaints of the Sachems and the said John and Tristram, which with little charge may be done at Falmouth in the County of Barnstable.

That therefore some suitable persons be appointed by this Court to hear all parties concerned at Falmouth aforesaid, giving proper notice thereof and make report what they think fit for this Court to do thereon.

Mch 24, 1741. Read and accepted and Sylvanus Barron, David Crocker and John Sumner, or any two of them, are appointed for the purpose aforesaid.

“To his Excellency, etc.,—

May ye 25, 1743. May it please your Excellency and Honors, we having received a copy from the Secretary of your order and petition sent out unto the Great and General Court March 31, 1743, by Paul Jouab, John Jouab and Abram Tashame for themselves and the rest of the Indians of Nantucket.

Said petitioners see fault that when said Indians sue for their just debts of the English people on Nantucket they cannot collect them in the law. Also their lands are taken from them by the said English people; so that they will not be able to raise corn this year for their subsistence. This seems to be the complaint of the Indians.

In obedience to your orders and desire we have diligently inquired into the grounds and accusations of said Indian complaint.

Touching the first article in their complaint, that they cannot recover their just debts of the English people,

Upon a diligent inquiry we could not find one single instance of the same, upon which we went to John Jouab and read the copy of said petition and order thereon, (said Jouab being the man that prepared said petition to said Court) and desired him to mention an instance wherein they were not able to recover their just debts of the English, upon which said John Jouab answered that they never put in any such complaint unto the said Court against the English on Nantucket.

And touching their lands being taken from them, etc., being the other article in said petition that they complained of;

We have diligently inquired into and we find that John Jouab who is the head complainant and John Tashime (who is father to Abram Tashime, said Abram representing his father) and a great part of the rest of the Indians

have this year let out a great many acres of pasturing land to the English people and do the same yearly.

We find that said Indians have one tract of land at Nantucket that contains more than 1,000 acres on which there live not above twenty eight or thirty families, which they have the sole planting of without the least molestation from the English.

Beside said tract the Indians plant their fields where they live throughout Nantucket, unmolested by the English people, from which we cannot find that said Indians have any ground at all for said complaint, but on the contrary they have more land than they want to plant yearly.

JOHN COFFIN,
ABISHAI FOLGER."

The General Court appears to have taken no action upon this petition and answer, possibly because no questions in it were different from those decided forty years before.

Paul Jouab was not satisfied at the delay.

"The Honored Governor at Boston and to the Council and House of Representatives :

This Paul Jouab is come from New York and he is set back to come to this Honorable General Court in Boston to pray the Honorable Court to tell him whatever this Honorable Court intends to do any more for him concerning their lands, or not; and if not, they pray to the Honorable Court that the said Paul Jouab may be dismissed from the said Court with his business, that he may go home to New York again, for his business has been in this Court a long time, and that Paul Jouab has been under great charges and time spent, and now I am undone; my money is spent and the English at Nantucket say there is no help for those Indians; now they take all

the best of our land away from us, and so they will always do.

Complaint is come to the Honorable General Court as to what English do to Indians at Nantucket; they let them have money and goods and Indians are sent whaling and fishing, and when Indians are at home then they must work for their masters, and they will not give Indians account of what they get at such times whaling or fishing, and let Indians live as long as he will, and when he dies English will take all what may be found to his estate, and English will leave nothing for Indian's wife or children, and so they become poor, and the poor Indians at Nantucket desire this from you; that the Indians may have an account made up to him to see what he is indebted to his said masters.

We pray that this may be granted by you "chintelmen" on General Court to your poor Indians at Nantucket.

Dated June 1, 1749.

PAUL JOUAB."

The Guardians were ordered to inquire into the complaint.

The Guardians were Jonathan Coffin, Richard Coffin and Abisha Folger. They were appointed in December, 1749.

In the early part of 1751 another attempt was made by a new company of Indians who petitioned the Legislature and accompanied their petition with several remarkable documents;—First in importance was a copy of the will of Nickanoose, which had lately been recorded at Martha's Vineyard, then followed the will of Wauwinnet, also translated by Experience Mayhew. With this was a petition from John and Ben Jouab, stating the situation at Nantucket, at a place called Wannasquam, which has probably continued to this day in the abbreviated form of Squam. Then followed the affidavit of certain Indians

concerning a brother who was a sachem, of the section called Orkawa.

Notice of this petition was served upon the parties interested at Nantucket.

In the meantime a petition signed by thirty Indians, dated December 2, 1751, had been presented to the General Court, accompanied by a copy from the records, which had been made years before in relation to four Indians. The order of notice was dated Dec. 31, 1751. The following are the petitions and exhibits, and the order of notice issued by the General Court.

“Waunashqua on Nantucket, Feb. 26, 1751.

We poor Indians at Nantucket do apply ourselves to you our kind Sachem Governor at Boston.

We entreat you effectually to help us with the help of God that we may have the use of our lands for the English will not suffer us to use it. For as for us Indians our Forefathers or fathers have not sould the land the claim we have nor have we ourselves sould it. And we find the Lame Sachem was the first born, whose Indian name, Nakottootanit whose brothers name was Wunnanche-momog, and Desiah Spotsoo, do say that this is true in the presence of God, Feb. 27, 1752.

I alldsoey do say this is true Nakattootamit was the eldest and the chief sachem at Onkawaem. I desiah Spotso my hand and old Hannah have heard this. This is my hand or mark.

The English at two Indians paper brought to me by Memfopooch translated by me, Experience Mayhew.

This Bejn Joab sues (says) he is grandson to the above Pompason.

The Indians claimed under some old wills of the sachems which are as follows: These documents were

first produced at Edgartown and translated by Experience Mayhew, and were recorded in 1745. It seems strange that such important documents did not appear at Nantucket when the makers died.

"I, Wauwinnett do leave or will to my children my sachemship and all my land.

But unto thee, Askaneapoo I commit the guardianship of my children to take care of them, of all which they have until they have understanding to improve the same.

I, Wauwinnet this is my writing and my hand.

I, Oowamassen am witness to this.

March 3, 1670.

I, Sanchimaish am witness.

Know all ye people that this is true.

The land does belong to the sons of Nicanoose and the children of Wauwinnet. This is true, to the knowledge of me, Joshua, of Chappoquiddick, June 27, 1706.

The said Benjamin Jonah showed me another Indian writing dated Feb. 16, 1686, containing an agreement betwixt Masquoit and a number of his people that no part of the land should be sold to the English.

The same have my name on it.

E. MAYHEW."

"I Nekanucussor, Sachem of Nantucket have now considered about my sons which are four, first the eldest is Pottupantamin, Nooso, the second What Nooso, the next James Nooso, the next Paul Nooso.

Now I give unto them lands I have divided unto them lands, the first bounds is Mashquttoohk or Reod River and so far as Aqunoonogqutut, or the hole where a stone

stands, and then as far as Hashkinnit chaopket, westward of ye hill and from thence as far as Mashquaponitib quite to ye River of Neckanoosoo Sachem at Wonnashquoom have divided to my four sons so much land viz: to Puttupamim Noosoo and What Messr James Noose and Paul Noosoo these are the Proprietors of sd lands verily and forever. If anyone sell any land he shall loose his interest among the rest. I Neckooeo have made a share for my four sons. They shall certainly have it and all their race or offspring. I fully or freely say this for God or in God's name, Because this is right.

I Neckanucusoo, Sachem, do confirm this forever.

My hand O."

"January 9, 1668.

I Wauwenit am witness this is my hand.

I Tatagamomos, my hand 6.

I Keostahhan, my hand 6.

I Wumoanohquin, my hand 3 (Seal.)

I Quaquahchoonit my hand.

I Ben Job Pompashom do say I have a reall or firm right to ye land which did belong to Puttupantam Nooso because never sold his land in all his lifetime nor have any of his offspring sold the same, and I Peter Tuphouse and I Peleg Tuphouse and I Benj. Job Pompasham do freely affirm we have rights to ye land which did belong to Puttupantam Noosoo.

BENJ. JOAB PAMPUSHOM,
PETER TUPHOUSE, x,
PELEG TUPHOUSE.

Entered July 23, 1745.

Translated by me Experience Mayhew from an Indian.

I was
This is my land.

THOMAS MAYHEW,

“July 6, 1751.

The case is thus at Nantucket at a place Wannasquam the place where I Benjamin till land. The Englishmen deal thus with us, not with me only but all in our place.

We plow our ground and they take it from us and grow oats on it. Some of our plowed land they turn over again and when some of us mow our grass English take the same from us.

Therefore we poor Indians pray you gentlemen mercifully send for us beginning at Nope and as far as Boston.

They deal too hardly by us and they fear there is danger still of greater evil.

It may be they will slay the Indians for land that belonged to them and what they had a judgment for at Boston.

It is now need that peace be made, so the English say also, that when we have our land divided off they will trouble us no more.

When we plant they let their cattle go into our corn and eat it up.

I John Jouab say this is so, as true as the English do this and the poor Indians are afflicted and troubled.

And we pray you, _____ may here consider
our case and help us that we may use our land.

I Ben Jouab and John Jouab am agreed in the matter for the Indians at Wannisquam and those of Lakeutta."

The depositions of several Indians were similar.

“This is concerning land at Orkawa :

There were certainly two sachems I David Pompasson do say Lame Sachem and Wunnonehumong were the Sachems at Orkawan and these were both children of one man and one woman. They were brothers.

Wherefore one had one-half and the other had the other half of the land of Okawa.

I David Pompasson do say that Nocodcotoonnit was the first born after him was born Wunnonshumanog.

W had a son called Iaoosoohquikbot.

I David Pompasson had for my grandfather Nakonooso who was owner of the land which I said Pompasson do own. I first sought it at the hands of Abel Soosoohqualui and Kate Soosoohquab, but and before this great I say I found and obtained it from their hands who all said David Pompasson did speak true, that there was but two sachems at Orkawa.

And David Pompasson spoke true that Nak, etc., was his grandfather and Wun—etc., who were brothers. Nak. etc., or Lane Sachem was the first born, after him was born Nun etc.

Therefore I say I David Pompasson am the owner of Arkowain because Nak etc., was my grandfather and he did not sell land as long as he lived.

I Sasopona Will do say that David Pompasson speaks true.

(Other Indians to same purport.)

March 4, 1719.

“To the Honorable Spencer Phipp, Lieut-Governor of the Province of ye Massachusetts Bay and ye Honorable Councill and House of Representatives in Generall Court assembled :

The humble petition of us ye subscribers, Indians of Nantucket, humbly sheweth that we are under great difficulty and oppression by ye English Inhabitants of ye sd Nantucket and have been so for a long time for about forty years past; they took away all our horses and cattle of all sorts and practiced ye same ever time adjudging we have no right to keep any and of latter years have taken

away our planting land not suffering us to plant any in peace and we can have no remedy, by reason yt it is all done by ye proprietors in Common and ye justice and juriours are all concerned and no longer since ye October last while one of us was gone to Boston to complain of wrong done to us in our planting land yt English people got to making fence to inclose a great part of our Land, we therefore pray that all controverseys between English and Indians relating to real estate may be tryed in some other Courts or other wayes releaved as your Honors in your wisdom may think fit and your petitioners ever pray,

Nantucket, Dec. 2, 1751.

(Signed by thirty Indians.)”

This petition was read in the Council and House of Representatives and Committees appointed to attend to the matter as soon as possible.

“The Committee appointed to consider the petition of a number of Indians, Inhabitants of Nantucket, have met and heard two of said Indians thereupon who further alledge that they are owners of one-half of said Island although the English set up a greater proportion in consequence of a late Indian deed.

The committee are therefore humbly of opinion that the Guardians of said Indians be served with copies of their petition and of the evidence brought to support it and that the said Guardian notifie the English Inhabitants who may be affected therby that so they may make answer thereto as soon as may be.

And that the said Guardians be directed likewise to make a representation of facts relating to this affair at the same time that so the Court may give the necessary orders about it. And in the same mean time that the said Guardians be directed to take effectual care that the

Indians be supported and protected in the enjoyment of their wonted privileges and improvements.

JACOB MENDELL,

By order."

"In Council December 31, 1751. Read and accepted and ordered that the English Inhabitants of Nantucket concerned in the affair within mentioned give in their answer to the Indians' complaint and the Guardians of the Indians their Representation of the facts on the first Fryday of the next sitting of this Court."

The following is a curious production addressed to the Colonial Governor :

"Our great Sachem to Boston if all ye will ples consider for us in this few words a bouth many things for we are all poor Indians and we all pray unto thee give us amendes and we all wish all ye may heare as in this our sd case.

First thing, abouth our Lands, next thing for our woods ; this white people som are neighbors ; they have take our land and cut of our woods and our marsh taken agains our wills and tha seat therein houses upon our lands against, and we have river get fish but we have no comford get fish ; this nothing but truth it this not lie and was all so.

Suffer for need for plant corn and wand buy for our cattle ; our Gardienes tha take away our lands and marsh and that Indian money for our lands and marsh for school masters and Indian ministers ; this gardienes tha will not gave to poor of Indian school masters and poor of Indian minister and now poor Indians fast go sea for deds for them no money for them close and then meets or lands or marsh for plant and we all think this not done for take away their bread out their mouths. We do not no laws so humble servants pray Indians unto thee Great

Honors we pray not made as suffer for you by law if you all will be cause we hear you made new laws which we are all not understand as laws and we cannot read and we cannot help ourselves for we no money if ever so much good our case in law."

The answers of the English are as follows :

PROPRIETARY'S ANSWER.

"Sherburne on Nantucket, June 5, 1752.

To the Honorable Spencer Phipps, etc., etc.

The propriety of the Town of Sherburne in the County of Nantuckett at a meeting legally warned and met together on the 19th day of February, 1752, made choice of us a Committee to draw up an answer to a petition of sundry Indians of Nantucket, preferred to your Honors in December last past. And we having weighed the matter fully are humbly of the opinion that the said petition is altogether ground less, their complaint being exhibited against the said proprietors for greatly oppressing them under sundry heads, viz. : about forty years ago the said Proprietors took away all their horses and have continued so to do ever since which assertion we find to be false for the said proprietors do not appear by any record to have impounded any horses or other beasts belonging to the Indians for many years last past, and we find in fact that the complainants forty years past and down to this day ever since did peaceably enjoy the pasturing of many horses and cattle and even Benjamin Jouab your pet'r the very head of the Faction doth at the time and hath for divers years past quietly enjoyed the pasturage of two horses being a right derived from the Onkawoom sachem by deed and so do all others of the Indians who by any means have obtained liberty from either of the sachems for

Pasturage of horses or cattle. All others tis true the said Proprietors have from time to time impounded and the Indians have often complained thereof to the Great and General Court unto whom the Proprietors have as often shown the justice of their proceedings and defended their course to the satisfaction of that August Assembly, and in no ways despair of doing the same again. By reason that all the rights they hold they purchase of the sachems who then subsisted (when the English first settled this Island of Nantucket in the years 1660 and 1661) and were by the Indian Inhabitants unanimously owned and acknowledged to be such, who were then in number, viz. :

NECOWNOOSOO,

WANNUUCHMANMOG,

ATTAPEHOT,

of whom and their decendants by virtue of a grant from the Government of New York to whom we were then subject and since upon our being annexed to this Province was ratified by this Court, they purchased all the lands and patronage they enjoy or claim and no other sachem was then known or acknowledged although Benjamin Jouab your p't'n'r claims half the Onkawoom sachemship under his great-grandfather Nekadotoounet, an elder brother as he saith to Wannuuchmanmog, neither man, name or claim ever heard of, as we can find, before now even by the oldest people here, divers of whom exceed four-score years.

It is a very ancient claim for Wannuuchmanmog, if he had till this time lived would have been 150 years old and upwards for he was a man in years when the Island was first settled and dyid beyond the memory of Man.

And as their planting land where any one hath obtained from the sachem any particular tract of land the said proprietor hath in no wise interrupted them in the peacable enjoyment thereof and it hath ever been and still is their

practice to Indulge them in the choice of any piece or parcel of land throughout a very large part of sd Island containing many hundreds of acres to plant in and the quantity without control or limitation and a great part of that which they plant they never hoe to effect but destroy our interest and their own too.

And as to others (who desired it) the Propriety have allotted certain tracts of land by metes and bounds more than a sufficiency for their own plantations and even more than they have occasion or desire to make use of, that though it was assigned to their use only they nevertheless often hire it out to the now proprietors for the sake of rum of which their desires are insatiate; and for which if not restrained they would hire out the whole Island, which would fall far short of sufficing them.

And as to the land inclosed in the absence of the complainant, we find that they had no design of the advantage of his absence for the setting up (of) that fence was many months before determined by the Proprietors legally warned and met on that occasion. And furthermore complainants have planted no land in that tract for many years past under any pretext of a planting right whatsoever. But the Proprietors have made use of it for meadow land which for lack of summer tending (feeding) is over run with Briars and other Rubbish which render it less profitable to the Owners to suppress which the Proprietors by a vote legally passed in the Proprietary have determined to pasture and feed the same with sheep, cattle, and horses without the least design of prejudice to the Indians. And we humbly conceive it can be no damage to the complainants.

And as to the complainants petition for the removal of tryals in real estate to some other County for that both judge and jurors are all interested, we answer—Tis fact as to the justices but not as to the jurors, for we have a

sufficiency of disinterested persons to compleat divers juries if occasion offers, nor hath it been the practice of our Courts to proceed otherwise; And since our Court is not fully Decicive, but on appeals in all civil cases are to the County of Suffolk, we humbly conceive your Honors will not deprive us of the Privileges granted to us by the aforesaid Government of New York and since confirmed to us by the Great and General Court of this Province, since we have done nothing to render us unworthy of the same.

May it Please Your Honors—

We are humbly of the opinion that the complaints are not grounded on any injustice offered by the said Proprietors to the complainants, but rather sprang from the instability of the Nation easily influenced by the instigation of evil-minded persons, who for some sinister ends stir them up to mischief even to perjuries and frequent forgeries, sundry of which have been self evident so others by clear evidence have been proved to be so.

And the deed that accompanies this complaint doubtless is one of that sort, and unquestionably will so appear to your Honors when your Honors reflect on Mr. Thomas Mayhew's fashion of witnessing the same, who was a Merchant and President of the Court of Dukes' County. But he appears in said deed to sign (Mr. Thomas Mayhew this my hand) which deed is said to be given by Niconnoosoo in the year 1668, written in the Indian tongue long before any Indian on this Island of Nantucket knew one letter in the alphabet, and pretended to be granted to Petepontum Noosoo, Wat Noosoo, James Noosoo, Paul Noosoo, the four sons of the said Necownoosoo, and the mark of Wauwinnet (among others) is set thereto as a witness who was son and heir to the said Necownoosoo, and in the year 1686 conveyed by deed the same lands beginning at the same bound to one of the

English Proprietors on sd Island, which deed was there recorded, and a great parts of the lands granted was there entered into and fenced by the Proprietors even in the lifetime of the said Pettepontum Noosoo, Wat Noosoo, James Noosoo and Paul Noosoo, who never claimed, challenged or demanded the same or any part thereof, nor their successors after their decease by virtue of any title by their pretended deed, notwithstanding it was held eighteen years after that was pretended to be given by their said father Necownoosoo's deed which deed was never recorded till the year 1745, at which time it jump't into the records of Duke's County, knight-errant like, or rather stole in there when it lay concealed till about two years past and then it appeared privately abroad and now in publick, but from whence it come or by whom made we know not; and finally we knowing the assertions to be true which we have herein represented are humbly of the opinion that your Honors will see cause to dismiss sd petition."

JEREMIAH GARDNER,
JOSIAH COFFIN.

GUARDIANS' REPORT.

"To His Honor Spencer Phipps, Esq., Lieut-Governor, etc., etc.

May it please your Honor, we the subscribers, Guardians of the Indians at Nantucket, having been served with copys of a petition and other papers put into the Great and General Court in December last by Ben Jouab and other Indians of Nantucket, and with a copy of the order of your Honors thereon and pursuant to the order of your Honors we have notified the English proprietors of Nantucket with copy of said petition the Indians Testimony and said order of Court thereon;

And as to the abuse of the English towards the Indians as the Indians set forth in said petition, the first is that the English people for fourty years past have taken away all their horses and cattle which is false and a groundless complaint, for every Indian on Nantucket that have right to keep them enjoy that Priviledge now unmolested which is many and the principall complaint, Bén-Jouab, hath a right for to keep two horses which he had of the Occowan Sachem, which he had always enjoyed without the least molestation by the English, and in the deeds of purchase which the English had of several sachems originally they received a considerable of rights for keeping horses for themselves and other Indians which they peaceably enjoy and always have except what they have since sold.

And as to their planting land which they say the English people have taken away, not suffering them to plant any in peace, is as manifestly false as their other complaints. For there is many of them that had considerable tracts of land given them and bounded heretofore by the several sachem which they have always enjoyed clear from molestation by the English, and those Indians that had no particular tracts of land allotted them by the sachems are all of them allowed to plant yearly as much as they want, and have large tracts to chose out of and yearly plant more than they hoe after it is planted, and they have hundreds of acres to choose out of for planting, so that they are not confined to poor land, and notwithstanding the Good and wholesome law of the Province they frequently for the sake of strong drink let some of the ill-minded English plant the best of this land and plant poorest themselves, and if they own the whole Island we are humbly of the (opinion) theyd waste and destroy most of the profits of same notwithstanding all the laws that are in favour of them they are so universally given to

strong drink to such a great degree, which we think together with the advice of some illminded persons for interest sake is the only motive of their uneasiness and pretended complaint.

And as farther touching their plantations notwithstanding the miserable care that they take of their corn, after it is planted, so that they have not above half a crop of corn in a general way, yet they have so little regard to their own welfare that as soon as their corn is ripe the greater part of them for the sake of rum begin to make sales of it so that they are out of corn before the winter is past, and by the spring of year that the English are obliged to supply them with corn on credit or they would go nigh to perish with hunger.

And the said Benjamin Jouab claims a tract of land by vertue of a writing said to be given by Nickanoosoo bearing date 1668.

We have taken considerable pains in searching into that writing and it seems to be self evident to be a forgery for it appeared originally writ in Indian translated into English by Mr. Experience Mayhew whereas the year that said writing bears date there was not an Indian on Nantucket that understood one letter in the alphabet, neither did there ever appear to be such a writing until about the time it crept on the records of Martha's Vineyard which was in the year 1745, they nor their fathers before all their lifetime never pretended or laid any claim to any such right neither doth said pretended deed carry any evidence with it to prove its validity so but that any Indian at any time may forge a number of such papers and date them far enough back and if they must be held valid and of any force they will destroy all the most authentick deeds that have been upon record for sixty years or more past. If they do but mind to date them far enough back from which no man can be sure of his property or

safe in that case, whereas John Swain late of Nantucket obtained a deed of purchase in 1680 of Wauwinnet the then avowed sachem, and son and heir unto the said Nickanoo-soo for the larger part of the same tract of land at the same bound specified in the Indian writing and running on the same course untill it comprised the greater part of sd Indian tract mentioned in their writing. And said John Swain under conveyance of said purchase unto the proprietors of Nantucket who immediately built sundry Houses thereon and improved the whole for above sixty year peaceably in the lives of the now claimers' ancestors who never demurred with them or laid any claim of any such right knowing the same to be honestly and legally sold as seems to appear.

And further the said Benjamin Jouab complains of a fence being lately set up which is prejudicial to them in their planting. The English have a large tract of land there of some thousands of acres which was so over-run rubage and bryers that it was almost destroyed as to its profits, and the motive that induced the English to be at such a great expense was that the stock or creatures might destroy the rubbage and make the ground fitter for other improvements again and for no other reason; sd fence takes in a small part of the land that Ben. Jouab claims by said writing which makes him mention that there is some few Indians that have some planting fields within said fence in the room of which the English have allowed them what land they want without the fence which they have planted to their satisfaction.

And Ben Jouab farther intimates that he owns half Occowa sachemship by virtue some former Indian sachem there he calls a lame sachem and by all that we can find out there never was any such lame sachem at Occowa or ever such pretence before for neither the oldest Englishman now nor Indian on Nantucket never heard of any such

sachem there and that the tribe Indian that lives there are ready to destroy him for making such pretence.

The English people when they first came on Nantucket found that Wannuckmoymok was the avowed sachem and lord of the said Occowa sachemship, and it has remained in the hands of him and his successors unto to this day, without the least demur and also the English always purchased of and sold Wannuckmoy was always the allowed sachem. The other Indians yearly paid their acknowledgments for their planting which as soon as the English purchased the sachems lost their profits that way which was some benefit to the Common Indians.

The English have always in favour to the Indians fenced their plantation land for them otherwise they would have had no corn which the English people were not obliged to do; the above as to us the subscribers seem the real facts as they now stand."

RICHARD COFFIN,
ABISHAI FOLGER,
Guardians unto the Indians
of Nantucket.

June 5, 1752.

Then John Jouab and his friends further petitioned.

"Please Your Excellency :

The Humble Petition unto you, Gentlemen, in Boston, To be pleased to consider for us and help us in the General Court, because we have great deal trouble by reason the English at Nantucket they have taken away our English hay from us what the Indians have always mowed ten "clash" loads, and some of the Indians take it out clash and more for they say the English mowed great deal of English hay near about our houses besides what they have taken from the Indians; but they have mowed themselves.

These wrongs began in the tenth day of July 1752; now

we poor Indians we humbly pray you Gentlemen be pleased to consider how the English dealt with these Poor Indians at Nantucket, and English having their own cattle on our land which land belongs to all the town Indians.

And another trouble we have because the English take away our reeds and oak brush and swamp brush so we think this contrary to justice; byt that reason we humbly pray you, Gentlemen, be pleased to consider for us and help us in the Honorable General Court. We are desire your help cause we want.

If you can find the Indians should have any land do be make haste, let us have it or receive in our hand to make use of among ourselves because the English are too hard for us.

Another trouble we have; the English at Nantucket they own great many sheep and they never keep them well in the summer time. Now in the year 1752 sheep eat up great many acres of corn from Indians.

Now I John Jouab I say the English cattle eat up my two acres of corn in the year 1741, and English never pay me nothing I took for my two acres.

Now this year English cattle eat up my one acre of corn from me, and Englishman made no recompense for us for corn to this day. All which we desire this Honorable Court to do for us justice in this case.

Again another thing; we Indians we went whaling for the English said our masters, so we kept again in for our masters great many years we went fishing and we may pay what we took for our master's houses and one thing and another; but when Indian was dead then English master come to widow and take away things again, makes as if he did only lend it away these things; then poor widow and fatherless children may have nothing.

Looks exceeding hard for poor Indians; some time one Indian worth great deal; then when he dead great many

English folks come and sacrifice all things, then after they done they carry away things sometime nothing left, sometime little left.

Another trouble we have ; about the great men in town. Englishmen there they say "we look after the poor Indians," and we poor Indians care not for any help from these chief men only we found there our folks come to our Indian town, take away our Indian hay near about our houses, and English folks following them owned cattle on our own land, which belongs to the town Indians altogether, and there was one great man in the English town named Abaisha Folger and then they say "We look after the poor Indians" another named Rochard Coffin, and we Indians cannot see any help only we found trouble which belongs to those men which say "We look after the poor Indian."

I am John Jouab, poor man, and fear of God ; I am afraid speak falsely before the great and small, and will not speak no other but which is true before the great men, and before God. I will not lie if my friend desire me to tell lie."

Witness, EBENEZER CAIN, His Mark.

Witness, SAMUEL HUMBREY, His Mark.

Witness, BENJAMIN JOUAB, His Mark.

Witness, JOHN JOUAB, His Mark.

I am John Jouab ; I have draw this writing with my hand September the eleventh, 1752.

The General Court finally passed an order June 13, 1753.

ON THE PETITION OF THE INDIANS OF NANTUCKET.

"The Committee appointed to consider the petition of a number of Indians of Nantucket have met and heard the said Indians report as in their opinion that Roland Cotton

and David Crocker, Esqs., with such as the Honorable Board shall join, be a committee appointed and empowered to repair to the Island of Nantucket as soon as may be and make inquiry into the grievances suggested and complained of by the Indians in their petition and other papers accompanying the same, and all other matters of complaint now existing.

That the Committee have power to send for persons and papers as occasion may be that they endeavor an accommodation of their differences between the English and Indians and make report to this Court of their doings therein and of what they shall judge proper for this Court to do further therein."

But there is no record that the committee ever went.

A PETITION OCTOBER, 1754.

"Humbly shew we (the) subscribers, Indians native and Inhabitants of the Island of Nantucket that we must once more beg your Excellencys and Honors to hear our distressed circumstances and that you will be pleased to take some effectual measures that we be releaved and extricated out of our difficulties, which are as followeth, viz. :

We are at this day rightful owners of a considerable part of the valuable lands on the said Island of Nantucket. But as we are there on said Island and none to take our part the English Proprietors there have taken our lands from us and improve them and allow us no more privilege than only enough to sett our house upon and a small garden. We can't keep a cow, horse or sheep unless we will submit to hire the privilege of the English and when we offer to keep any creatures other ways may impound them and put us to near as much costs as the creatures are worth. One or two instances we beg leave to mention.

John Toshama in January, 1753, who as he supposed

has a privilege right to keep a cow and one horse to run and feed on the Island had his cow taken up at that time. In the year by Zephaniah Coffin and Able Gardener and impounded, and he was obliged to pay two pounds twelve shillings lawful money afore he could have his cow out of pound or go to law with them which he was in no capacity to do and has ever since been obliged to keep his cow tied up to prevent a second opportunity.

2ndly. Some of our said lands particularly at the west end of said Island by the Court held at Edgartown June 20, 1672, were settled upon our predecessors and their heirs none to be sold or alienated from them without the consent of them or heirs and the sachem. Which said settlement remains undisturbed till this day and our.

To have these very lands improved by the English and ourselves forcibly kept out of the improvement of any of them.

Many more instances to say of hard usage from the English to the Indians might be mentioned but as sundry of them have been heretofore told of in the several petitions that were lately preferred to your Excellency and Honors therefore we would not be further tedious or troublesome.

But only once more to beg your Excellency and Honors to take our distressed circumstances into your wise consideration to receive our former petitions and take some effectual measures that we may have at least the same justice done us as other of His Majesty's good subjects have reason always to expect under your Excellency's and Honors wise protectors, and that you will be pleased to appoint some gentlemen that stand indifferent, to make a particular inquiry into our titles and the usage we have received from the English on said Island from time to time and report the same to your Excellency and Honors so that we may be extricated out of our pressing

difficulties or otherwise to relieve us as you in your great wisdom shall see meet and in duty bound shall ever pray, etc."

His.
JOHN X TASHAMA,
Mark.

Another Committee was ordered to Nantucket in Sept., 1755, but it never went.

Aug. 29, 1757. The Committee with Mr. Foster and Mr. Barron with such as the Board shall appoint shall go to Nantucket to investigate complaints of some years' standing, hear the parties, and report what they judge proper for the Court to do therein; the several committees formerly appointed for that purpose not having been able to attend to that service.

This committee probably went to Nantucket, because the account given by Obed Macy seems to confirm this inference. But they never made any report that has been preserved.

With the order that the Committee visit Nantucket the record in the State House ends. No report of the Committee can be found, and how the matter was decided is left to conjecture.

In Macy's History of Nantucket, on pages 59 to 61, is an account of the controversy which has been heretofore described. He states that the petition was pending in the Supreme Courts and that a judge went to Nantucket and that the case was heard and argued and a decision rendered in favor of the English. In this account Macy relates what probably contained some truth, but also considerable error.

1. It is undoubtedly true that the tribunal, whatever it may have been, went to Nantucket and found the Town House too small for the purpose, and used the meeting-house for the trial.

2. There was no Supreme Court in those days, and the petition which is quoted by Macy could not have been tried in a court of law; the fact probably was that instead of the Supreme Court the General Court was intended by the person who informed Macy.

3. He says the petition of 1702 continued before the Court for many years, and was finally decided in 1753, but it has been shown that this matter was settled by a committee in 1703, and that the controversy subsequent to 1741 took place long after Spotso had died.

4. He says that the petition of 1702 was brought about by the English, as they desired to have the complaint settled, and it is to be inferred from his account that this was the only petition brought by the Indians. This is a mistake, for there were many other petitions brought by the Indians and were settled as convenience allowed. It is incredible that having obtained a decision in 1703 the English should invite other attacks accompanied by forged wills and encourage a controversy that continued over fifty years. It may have been possible, but not probable, that the 1702 petition was not objected to by the English, but it cannot be admitted that they took kindly to the later disputes; having obtained one favorable decision, they would not permit their title to be disturbed.

5. Macy says that a Judge came in 1753, and a description of the proceedings is given. Probably this date is incorrect, and the fact probably is that the committee of the Legislature with two of Boston's ablest attorneys went to Nantucket in 1757 or 1758, instead of 1753, and that a hearing was had in some public place, according to the usage in such cases, and witnesses were

heard and quite likely some members of the committee argued the two sides of the case. Then the chairman, quite likely one of the lawyers—who in those days were usually called judges—gave the decision of the committee, and the Indians retired as Macy describes.

But as no record was kept of the proceedings Macy must have received the material for his description from tradition, and many of the details became obscured and changed.

It is to be regretted that no report of the committee can be found.

No further attempt by the Indians was ever made to regain their lands. It is stated that the last of the Indian race died in 1822.



